

SEP 28 2007

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TERESA ESPINOZA-REBOLLAR,

Defendant - Appellant.

No. 06-50547

D.C. No. CR-03-01310-TJW

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Thomas J. Whelan, District Judge, Presiding

Submitted September 24, 2007**

Before: CANBY, TASHIMA, and RAWLINSON, Circuit Judges.

Teresa Espinoza-Rebollar appeals from the district court's judgment upon limited remand pursuant to *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005) (en banc), concluding that her sentence would not have been materially

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

different under the advisory Sentencing Guidelines. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Espinoza-Rebollar contends that the district court erred by denying allocution on limited remand. This contention is foreclosed. *See United States v. Silva*, 472 F.3d 683, 689 (9th Cir. 2007).

Espinoza-Rebollar further contends that the district court misconceived its authority to impose a different sentence on limited remand, and failed to state reasons or to consider factors that were not taken into account under the mandatory Guidelines. However, the record discloses that the district court considered the sentence in light of the 18 U.S.C. § 3553(a) factors and determined that it would not have imposed a materially different sentence under an advisory Guidelines system. We conclude that the district court understood the full scope of its discretion following *United States v. Booker*, 543 U.S. 220 (2005). *See United States v. Combs*, 470 F.3d 1294, 1296-97 (9th Cir. 2006). Accordingly, the district court's decision was reasonable. *See id.*

Espinoza-Rebollar's motion to lift the stay is denied as moot.

AFFIRMED.